

Amendments To The Drawings:

Please replace the sheet of drawings no. 3/5 with the attached sheet labeled "New Sheet 3/5."

Remarks

This Amendment is in response to the Office Action dated **February 18, 2009**.

Claims 1-3, and 6-22 are pending. Claims 18-22 are new.

Drawings

The Office Action objects to the drawings for failing to show the washers 124 and 224 mentioned on page 8 line 20. The attached sheet of drawings ("New Sheet 3/5") includes changes to Figs. 9 and 10. This sheet, which includes Fig. 8-10 replaces the original sheet 3/5. In Figure 9, previously omitted element washer 124 has been added. In figure 10, washer 224 has been added. Approval is requested.

Specification

The abstract has been objected to as having an incomplete first sentence. The objection is traversed. There is no requirement for complete sentences in abstracts. MPEP 608.01(b), cited in the Office Action, provides sample abstracts (1) and (2), the first sentence of both of which are also an incomplete sentences. However to advance prosecution the abstract has been amended so that the first sentence is a complete sentence. Withdrawal of the objection to the abstract is requested.

Claim Objections

Claims 3-5, 10-14, and 16 have been objected to as informal, with the examiner suggesting the following as corrections:

In claim 3, line 3, "centre" should read "center";
In claim 10, line 12, "portions" should read "portion"; and

In claim 16, lines 5-6, “pair overlapped” should read “pair of overlapped”.

The suggested change has been made in claims 3 and 10. An alternate change has been made in claim 16 with the result that the informalities identified in that claim is not present in the amended claim 16 submitted herein. Withdrawal of the claims objections is requested.

Claim Rejections - 35 USC § 101

Claims 1-9 have been rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Reconsideration is requested.

Claim 1 has been amended. The amended claims are not directed to non-statutory subject matter. The claims do not recite apart the human body in combination with device. Instead they define how the device performs in the body, which does not make the human body a part of the claimed device. Withdrawal of the §101 rejection is requested.

Claim Rejections -35 USC § 102

Claims 1-9, 15, and 17 have been rejected under 35 U.S.C. 102(b) as being anticipated by Murray (US 6093188). Reconsideration is requested.

The amended claims are not anticipated by *Murray* (US 6,093,188). The amended independent claims recite “substantially rigid connecting members extending between and substantially rigidly connecting the fixing portions” *Murray* does not have connecting members substantially rigidly connecting the fixing portions due to the presence of spring members 30. There is a need for rigidity in positioning the fixing portions relative to each other to hold the bone pieces together to allow healing. Inclusion of the spring member (of *Murray*) is

disadvantageous and applications where two small bone pieces are held together in compression. The spring member may not provide the correct ongoing compression due to relaxation on the spring.

At least for the reasons given above the withdrawal of the anticipation rejection on Murray is respectfully requested.

Claim Rejections -35 USC § 103

Claims 10-11 and 16 have been rejected under 35 U.S.C. 103(a) as obvious from Murray (US 6093188) in view of Michelson (US 2003/0060828). Reconsideration is requested.

The Examiner contends that *Michelson* has "at least two bone fixing devices, whereby, in use at least one of the fixing portions of each bone fixing device can be concentrically overlapped with the fixing portion of another bone fixing device such that a fastener can be extended through the holes of the overlapping fixing portions. The Examiner contends that this feature is disclosed in figure 1 and paragraph 74 although the applicant cannot find this feature in this passage.

In any event claim 10 now reads "wherein at least one of the fixing portions of one of the bone fixing devices is configured to be concentrically overlapped with a fixing portions of one of the bone fixing devices concentrically through the holes of the overlapped fixing portions." *Michelson* does not have these features. Instead *Michelson* has a fastener 106, which extends through hole 130 and hole 148. Fastener 106 is configured to be non-detachable attached to at least one of the first and second segments 102, 104 to couple together the two or more plate segments. The fastener 106 is non-detachable to prevent non-destructive complete uncoupling of the first and second segments 102, 104 from each other during normal use. The fastener 106 may

be in the form of a rivet having a head 108, a shaft 112 and a base 114. Clearly the fastener 106 is not suitable to operate as a bone fastener. Furthermore, neither segment 102 or 104 is able to be configured to be concentrically overlapped with the fixing portion of another one of the bone fixing devices in a pivotable arrangement. In addition claim 10 is neither anticipated nor obvious for the reasons given above in relation to claim 1.

At least for the reasons given above, withdrawal of the obviousness rejection of claims 10-11 and 16 is respectfully requested.

Conclusion

The outstanding objections and rejections have been overcome. The application is believed to be in condition for allowance. Early and Favorable action thereon is requested.

Respectfully submitted,
VIDAS, ARRETT & STEINKRAUS

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By: /Walter J. Steinkraus/
Walter J. Steinkraus
Registration No.: 29592

6640 Shady Oak Rd., Suite 400
Eden Prairie, MN 55344-7834
Telephone: (952) 563-3000
Facsimile: (952) 563-3001
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attachment: New Sheet 3/5 of Drawings